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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,820	07/07/2004	Masahiro Oho	2004-1067A	8282
52349 7590 01/04/2010 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER				
FEARER, MARK D				
ART UNIT		PAPER NUMBER		
2443				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/500,820

**Applicant(s)**

OHO ET AL

**Examiner**

MARK D. FEARER

**Art Unit**

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 6-8, 10, 11, 14, 15, 18-20, 23-26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 6-8, 10, 11, 14, 15, 18-20, 23-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's Amendment filed 18 September 2009 is acknowledged.
2. Claims 1, 6, 11, 15, 19-20 and 28-29 have been amended.
3. Claims 2-5, 12-13, 16-17, 21 and 27 are cancelled.
4. Claims 1, 6-8, 10-11, 14-15, 18-20, 23-26 and 28-29 are pending in the present application.

***Allowable Subject Matter***

5. Claims 28-29 are allowed.

The following is an Examiner's statement of reasons for allowance:

Consider claim 28. None of the prior arts of record teach or suggest the claimed limitations of a computer-readable recording medium having a program recorded thereon, the program for instructing a computer device to exchange first content data of interest that is owned by the computer device with second content data of interest to the computer device that is owned by another computer device, the computer device encrypting the first content data of interest owned by the computer device when the first content data of interest is exchanged between the computer device and the other computer device, the other computer device encrypting the second content data of interest owned by the other computer device when the second content data of interest is exchanged between the computer device and the other computer device, and the program causing the computer device to execute a method comprising:

instructing the computer device to request an exchange completion data keeping device for keeping exchange completion data to produce first exchange completion data that is a decryption key, and that is necessary for reproducing encrypted first content data of interest to the other computer device, the encrypted first content data being obtained by encrypting the first content data of interest that is owned by the computer device; instructing the computer device to obtain, from the exchange completion data keeping device, second exchange completion data that is a decryption key, and that is necessary for reproducing encrypted second content data of interest to the computer device, the encrypted second content data being obtained from the other computer device when a communication session with the other computer device is terminated; requesting the exchange completion data keeping device to produce the second exchange completion data; receiving, from the exchange completion data keeping device, a conversion process data used for converting the first content data to the encrypted first content data that can be reproduced successfully only by using the second exchange completion data; converting the first content data owned by the computer device, by using the conversion process data, to encrypted first content data that can be reproduced successfully only by using the second exchange completion data; receiving the encrypted second content data from the other computer device; and recovering the second content data that can be reproduced successfully, from the encrypted second content data by using the first exchange completion data, wherein the exchange completion data keeping device transmits (i) the first exchange completion data to the other computer device, and (ii) the second exchange completion data to

the computer device, the transmitting of the first and second exchange completion data being performed only when the computer device has successfully received from the other computer device the encrypted second content data of interest to the computer device and when the other computer device has successfully received from the computer device the encrypted first content data of interest to the other computer device.

Consider claim 29. None of the prior arts of record teach or suggest the claimed limitations of a computer-readable recording medium having a program recorded thereon, the program for instructing an exchange completion keeping device, which is used in a system for exchanging content data of interest between a first computer device and a second computer device connected to each other via a communication medium, and the program causing the exchange completion keeping device to execute a method comprising: producing (i) first exchange completion data, in response to requests from the second computer device, that is a first decryption key and that is necessary for reproducing encrypted second content data that is of interest to the first computer device and that is obtained by the first computer device from the second computer device and (ii) second exchange completion data, in response to requests from the first computer device, that is a second decryption key and that is necessary for reproducing encrypted first content data that is of interest to the second computer device and that is obtained by the second computer device from the first computer device; storing the first exchange completion data and the second exchange completion

data producing first and second conversion process data respectively used for converting the second and first content data to the encrypted second and first content data that can be reproduced successfully by using the first and second exchange completion data; transmitting the first conversion process data to the second computer device and the second conversion process data to the first computer device; and transmitting the first exchange completion data to the first computer device and transmitting the second exchange completion data to the second computer device, the transmitting of the first and second exchange completion data being performed only when the first computer device has successfully received from the second computer device the encrypted second content data of interest to the first computer device and when the second computer device has successfully received from the first computer device the encrypted first content data of interest to the second computer device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement

thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1, 6-8, 10-11, 14-15, 18-20 and 23-26 are rejected under 35 U.S.C. 101.

Consider Claims 1, 6-7 as applied to Claim 1, 8 as applied to Claim 7, 10 as applied to Claim 1, 19, 20 as applied to Claim 19, 23-24 as applied to Claim 19, and 25-26 as applied to Claim 24. Applicant attempts to claim non-statutory subject matter by grouping software and signals under the term computer usable/readable media and memory. Furthermore, Applicant has indicated a system comprised entirely of software. Applicant fails to claim a proper computer readable medium and thus fails to fall within a statutory category and is thus, per se, considered software/a signal. The claims and specification require amendment such that they include the term non-transitory computer-readable medium and such that the term non-transitory computer-readable medium is not defined as including non-statutory subject matter (entirely software, propagation media, etc.). The claimed 'communication medium' needs to be further defined.

Consider Claims 1, 6-7 as applied to Claim 1, 8 as applied to Claim 7, and 10 as applied to Claim 1. Applicant claims the non-statutory subject matter of a program (a system). The recited system is not embodied in computer-readable media and is therefore software per se, and hence, non-statutory. Since the claimed program are not

tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C 101.

Consider Claims 11, 14 as applied to Claim 11, 15, 18 as applied to Claim 15. Applicant claims the non-statutory subject matter of a program (a unit). The recited units are not embodied in computer-readable media and are therefore software per se, and hence, non-statutory. Since the claimed program are not tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C 101.

Consider Claims 19, 20 as applied to Claim 19, 23-24 as applied to Claim 19, and 25-26 as applied to Claim 24. Applicant claims the non-statutory subject matter of a program (a device). The recited device is not embodied in computer-readable media and is therefore software per se, and hence, non-statutory. Since the claimed program are not tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C 101.

### ***Conclusion***

8. Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents  
P.O. Box 1450



Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

**Customer Service Window**

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Art Unit: 2443

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer

/M.D.F./

December 30, 2009

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443